

1 UNITED STATES DISTRICT COURT
2 EASTERN DISTRICT OF NEW YORK

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4 UNITED STATES OF AMERICA, : 11-CR-005(SLT)
5 Plaintiff , :
6 -against- : United States Courthouse
7 BARTOLOMEO VERNACE, : Brooklyn, New York
8 Defendant. : April 17, 2013
9 : 9:30 o'clock a.m.
10 - - - - - X

11 TRANSCRIPT OF TRIAL
12 BEFORE THE HONORABLE SANDRA L. TOWNES
13 UNITED STATES DISTRICT JUDGE, and a jury.

14 APPEARANCES:

15 For the Government: LORETTA LYNCH
16 United States Attorney
17 BY: EVAN M. NORRIS
18 AMIR TOOSSI
19 KRISTIN MACE
Assistant United States Attorneys
271 Cadman Plaza East
Brooklyn, New York

20 For the Defendant: CHARLES F. CARNESI, ESQ.
21 1225 Franklin Avenue
22 Garden City, New York 11530

23 JOSEPH DiBENEDETTO, ESQ.
24 233 Broadway
25 New York, New York 10270

1 Also Present: Special Agent Paul Tambrino
2 Special Agent Jeffrey Tarklin
Paralegal Shernita Moore

3 Court Reporter: Charleane M. Heading
4 225 Cadman Plaza East
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6 Proceedings recorded by mechanical stenography, transcript
7 produced by computer-aided transcription.

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14 (In open court; outside the presence of the jury.)

15 THE CLERK: Criminal cause for trial. Docket number
16 11-CR-05. The United States of America versus Bartolomeo
17 Vernace.

18 Counsel, please state your names for the record.

19 MS. MACE: Good morning, Your Honor. Kristin Mace,
20 Agent Paul Tambrino and Shernita Moore for the United States.

21 MR. CARNESI: Good morning, Your Honor. Charles
22 Carnesi and Joseph DiBenedetto appearing for Mr. Vernace.

23 THE COURT: Good morning. And Mr. Vernace is here.

24 I have two notes. One is Court Exhibit Z.

25 May we have police testimony of Donald Mayerhofer

1 and William Nasoff.

2 And we have that ready?

3 MS. MACE: Yes, Your Honor.

4 THE COURT: So any objections to just sending the
5 testimony of those two witnesses in?

6 MR. CARNESI: No, Your Honor.

7 MS. MACE: No, Your Honor.

8 THE COURT: And then I also have Court Exhibit AA
9 which is a second note for the day.

10 May we have the complete testimony of Howard Santos.

11 Do we have that ready?

12 MS. MACE: It's not quite ready yet. We're going
13 through -- there's several objections during that testimony so
14 we're going through, making sure the redactions are correct,
15 and we'll give it to defense counsel as well to check.

16 THE COURT: Okay. All right. So as of now then
17 we'll send the testimony in of Mayerhofer and Nasoff.

18 THE CLERK: Yes, Judge.

19 THE COURT: And once you have it ready, once
20 everybody has reviewed it, any objection to having Ms. Frullo
21 take that in, Mr. Santos' testimony?

22 MR. CARNESI: No, Your Honor.

23 MS. MACE: No, Your Honor.

24 THE COURT: All right. Thank you.

25 (Court is in recess awaiting verdict of the jury.)

1 AFTERNOON SESSION

2 (In open court; outside the presence of the jury.)

3 THE COURT: I have a note from the jury which we
4 have marked Court Exhibit BB.

5 We have a verdict as to all counts. And it's signed
6 by Juror Number One.

7 We'll bring the jury in.

8 THE CLERK: Yes, Judge.

9 (Jury enters.)

10 THE COURT: Please be seated.

11 THE COURT: Members of the jury, I have a note which
12 we have marked Court Exhibit BB signed by the foreperson.

13 We have reached a verdict as to all counts.

14 Is that correct?

15 THE FOREPERSON: Yes.

16 THE COURT: So that we can now have the verdict
17 stated for the record, I'm going to ask you to stand, Juror
18 Number One.

19 Count One, racketeering conspiracy, how do you find
20 the defendant as to Count One, guilty or not guilty?

21 THE FOREPERSON: Guilty.

22 THE COURT: All right. Now, so you went ahead and
23 you determined whether the Racketeering Acts were proved or
24 not proved. So we'll go through each of those.

25 Racketeering Act One-A, conspiracy to distribute

1 heroin, how do you find, proved or not proved?

2 THE FOREPERSON: Proved.

3 THE COURT: Racketeering Act One-B, heroin
4 distribution, how do you find, proved or not proved?

5 THE FOREPERSON: Proved.

6 THE COURT: All right. And having found that
7 Racketeering Act One was proven, did you further determine
8 whether or not Racketeering Act One-A and B related to the
9 enterprise and to at least one other Racketeering Act?

10 THE FOREPERSON: Yes.

11 THE COURT: And your decision on that, was it
12 related?

13 THE FOREPERSON: Yes, ma'am.

14 THE COURT: All right. Thank you.

15 Racketeering Act Two, conspiracy to murder and
16 murder of Richard Godkin, how do you find with regard to
17 Racketeering Act Two-A, conspiracy to murder, proved or not
18 proved?

19 THE FOREPERSON: Proved.

20 THE COURT: And Racketeering Act Two-B, murder, how
21 do you find, proved or not proved?

22 THE FOREPERSON: Proved.

23 THE COURT: And did you find that Racketeering Act
24 Two was related to the enterprise and at least one other
25 Racketeering Act?

1 THE FOREPERSON: Yes.

2 THE COURT: And what was your decision?

3 THE FOREPERSON: Yes.

4 THE COURT: All right.

5 Racketeering Act Three, three-A, conspiracy to
6 murder John D'Agnese, how did you find, proved or not proved?

7 THE FOREPERSON: Proved.

8 THE COURT: And Racketeering Act Three-B, murder of
9 John D'Agnese, how do you find, proved or not proved?

10 THE FOREPERSON: Proved.

11 THE COURT: And what did you find with regard to
12 whether Racketeering Act Three A and B were related to the
13 enterprise and to at least one other Racketeering Act?

14 THE FOREPERSON: Yes.

15 THE COURT: All right. And that was your answer,
16 yes?

17 THE FOREPERSON: Correct.

18 THE COURT: Racketeering Act Four, illegal gambling,
19 video gambling machines, how did you find, proved or not
20 proved?

21 THE FOREPERSON: Proved.

22 THE COURT: And did you further find that
23 Racketeering Act Four is related to the enterprise and to at
24 least one other Racketeering Act?

25 THE FOREPERSON: Yes.

1 THE COURT: Racketeering Act Five, Racketeering Act
2 Five-A, extortionate extension of credit conspiracy, how did
3 you find, proved or not proved?

4 THE FOREPERSON: Proved.

5 THE COURT: Racketeering Act Five-B, extortionate
6 collection of credit conspiracy, how did you find, proved or
7 not proved?

8 THE FOREPERSON: Proved.

9 THE COURT: And with regard to Racketeering Act
10 Five, how did you find as to whether or not it was related to
11 the enterprise and to at least one other Racketeering Act?

12 THE FOREPERSON: Yes.

13 THE COURT: All right. Racketeering Act Six,
14 illegal gambling, Baccarat, proved or not proved, how did you
15 find?

16 THE FOREPERSON: Proved.

17 THE COURT: And what was your response as to whether
18 it was related to the enterprise, that is, Racketeering Act
19 Six, and to at least one other Racketeering Act?

20 THE FOREPERSON: Yes.

21 THE COURT: All right. Racketeering Act Seven,
22 extortionate extension of credit conspiracy, also Baccarat,
23 how did you find, proved or not proved?

24 THE FOREPERSON: Proved.

25 THE COURT: And how did you find that, whether or

1 not it was related to the enterprise and to at least one other
2 racketeering act, yes or no?

3 THE FOREPERSON: Yes.

4 THE COURT: All right. Racketeering Act Eight,
5 robbery, conspiracy and robbery of Marin Ursu, Racketeering
6 Act Eight-A, robbery and conspiracy, how did you find, proved
7 or not proved?

8 THE FOREPERSON: Proved.

9 THE COURT: Racketeering Act Eight-B, robbery, how
10 did you find, proved or not proved?

11 THE FOREPERSON: Proved.

12 THE COURT: And how did you find with regard to
13 whether or not Racketeering Act Eight was related to the
14 enterprise and to at least one other Racketeering Act, yes or
15 no?

16 THE FOREPERSON: Yes.

17 THE COURT: And Racketeering Acts Nine, extortionate
18 extension of credit, extortionate collection of credit
19 involving Bruce Kitchen, Racketeering Act Nine-A, extortionate
20 extension of credit, how did you find, proved or not proved?

21 THE FOREPERSON: Proved.

22 THE COURT: Racketeering Act Nine-B, extortionate
23 collection of credit, how did you find, proved or not proved?

24 THE FOREPERSON: Proved.

25 THE COURT: And did you further determine whether or

1 not Racketeering Acts Nine was related to the enterprise and
2 at least one other Racketeering Act?

3 THE FOREPERSON: Yes.

4 THE COURT: And your answer?

5 THE FOREPERSON: Yes.

6 THE COURT: All right. Count Two, using, carrying
7 and possessing a firearm, how did you find as to Count Two,
8 guilty or not guilty?

9 THE FOREPERSON: Guilty.

10 THE COURT: If your verdict is guilty as to
11 Count Two, answer the following questions.

12 And did you do that, the two questions?

13 THE FOREPERSON: Yes, ma'am.

14 THE COURT: Question number one: Was one or more of
15 the firearms in question brandished?

16 How did you answer, yes or no?

17 THE FOREPERSON: Yes.

18 THE COURT: All right. Number two: Was one or more
19 of the firearms in question discharged?

20 How did you answer, yes or no?

21 THE FOREPERSON: Yes.

22 THE COURT: And finally, Count Three, illegal
23 gambling, video gambling machines, how did you find as to
24 Count Three, guilty or not guilty?

25 THE FOREPERSON: Guilty.

1 THE COURT: All right. And did you sign as Juror
2 Number One and date it?

3 THE FOREPERSON: Yes, ma'am.

4 THE COURT: All right. Please be seated.
5 Would you like the jury panel to be polled?

6 MR. CARNESI: Yes, Your Honor.

7 THE COURT: All right.

8 So what that means, members of the jury, is that I'm
9 going to ask each of you separately whether or not the verdict
10 on the verdict sheet and as laid out by your foreperson was
11 your verdict.

12 Juror Number One, is that your verdict?

13 THE JUROR: Yes.

14 THE COURT: Juror Number Two?

15 THE JUROR: Yes.

16 THE COURT: Juror Number Three?

17 THE JUROR: Yes.

18 THE COURT: Juror Number Four?

19 THE JUROR: Yes.

20 THE COURT: Juror Number Five?

21 THE JUROR: Yes.

22 THE COURT: Juror Number Six?

23 THE JUROR: Yes.

24 THE COURT: Juror Number Seven?

25 THE JUROR: Yes.

1 THE COURT: Juror Number Eight?

2 THE JUROR: Yes.

3 THE COURT: Juror Number Nine?

4 THE JUROR: Yes.

5 THE COURT: Juror Ten?

6 THE JUROR: Yes.

7 THE COURT: Juror Eleven?

8 THE JUROR: Yes.

9 THE COURT: And Juror Twelve?

10 THE JUROR: Yes.

11 THE COURT: All right.

12 Members of the jury, I wish to thank you so much for
13 the time that you spent here. I know that it's taken quite a
14 bit of time out of your lives.

15 Our jury system simply could not work if we didn't
16 have people who are willing to give up your time as you have
17 done here. Every time you've left the courtroom, I've said
18 you may not discuss the case. While you may discuss the case
19 now if you want to, if you do not want to, you don't have to,
20 but thank you very much for your jury service.

21 You are discharged.

22 (Jury exits.)

23 THE COURT: All right. We'll set a date for the
24 Rule 29 and Rule 33 motions.

25 MR. CARNESI: Yes, Your Honor.

1 THE COURT: All right. When can you file?

2 MR. DiBENEDETTO: Judge, is two weeks okay?

3 THE COURT: Oh, sure. Is that all you need, two
4 weeks?

5 MR. DiBENEDETTO: Judge, three weeks would be better
6 if it's okay with the Court.

7 THE COURT: Yes.

8 THE CLERK: May 8th, Judge?

9 THE COURT: May 8th, yes. File your motions by that
10 date.

11 How long does the government need to respond?

12 MR. NORRIS: We'd ask for three weeks to respond.

13 THE COURT: All right.

14 THE CLERK: May 29th, Judge.

15 THE COURT: May 29th.

16 And reply, if any, by the defense, how long would
17 you like?

18 MR. DiBENEDETTO: One week, Judge.

19 THE CLERK: June 5th, Judge.

20 THE COURT: June 5th.

21 And give me a date -- is there something else?

22 MR. DiBENEDETTO: No.

23 THE COURT: Give me a date for oral argument.

24 THE CLERK: June 28th.

25 THE COURT: All right.

1 THE CLERK: June 28th at 11 a.m.

2 THE COURT: All right. Thank you.

3 We're adjourned.

4 MR. NORRIS: Thank you, Your Honor.

5 (Matter concluded.)

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